



AIM Insight:



Employee incentivisation - Tax efficient share plans

Employee share plans are an excellent way to incentivise and retain valued members of staff. They are particularly attractive to employees of AIM-listed groups where there is a market for the shares.

Taxation of share and share options

Offering shares and share options to employees has employment tax implications. When an option is exercised or shares are awarded, income tax charges and National Insurance Contributions ("NICs") are likely to arise. The amount subject to tax will typically be the market value ("MV") of the shares acquired less the price paid by the employee.

AIM-listed groups may issue shares to employees after vesting conditions have been satisfied. Taxes will generally be collected via PAYE which can mean employees receive fewer shares than are awarded if shares need to be sold to fund the tax.

On the future sale of the shares by the individual, any gain arising should be subject to capital gains tax ("CGT"). If CGT is payable it will generally be at a rate of 20%, depending on the individual's marginal tax rate.

From the company's perspective, an exercise of share options or an award of shares should enable the UK employing company to claim a corporation tax ("CT") deduction based on the value of the shares issued to the employee.

Tax-advantaged share option plans

Under a tax advantaged share option plan, there is scope to eliminate the income tax charge on share options. A number of these arrangements require registration with HM Revenue &

Customs ("HMRC") but the tax advantages tend to outweigh the implementation costs. The types of arrangement which are typically implemented by AIM-listed groups and the key tax benefits are explained below.

Enterprise management incentives ("EMI")

Often used by private companies, an EMI plan may also be appropriate for small or medium-sized AIM-listed groups with gross assets of £30m or less and fewer than 250 employees.

An EMI plan allows an employee to be granted options over shares with an MV of up to £250k. A qualifying AIM-listed group can issue EMI options over shares with an MV of up to £3m in total. These limits are determined by reference to the unrestricted share price when the options are granted.

- The plan allows the option to be exercised free of income tax provided the MV at the date of grant is paid on exercise of the option.
- EMI options should (subject to conditions) be eligible for Entrepreneurs' Relief ("ER") and therefore a capital gains tax rate of 10% on any gains realised.
- EMI options do not need to be granted to all employees and vesting and exercise criteria can be included such as performance based conditions. The conditions attached to the exercise of EMI options can be very flexible.
- An EMI is a flexible arrangement providing attractive tax benefits for both the company and employees.



Company Share Option Plan (“CSOP”) Other share arrangements and ideas

For larger AIM-listed groups, a CSOP may be an alternative where the company doesn’t qualify for EMI or the limits are exceeded.

- Options over shares with an MV of up to £30,000 may be granted to each individual.
- CSOP options have similar advantages to EMI. On exercise, income tax should not arise provided the employee pays at least the MV of the shares at the option grant date.
- Gains on the sale of AIM-listed shares obtained will usually be taxed at 20% rather than at 10% as ER is unlikely to apply.
- However, options cannot be exercised until after three years from the date of grant.

For some AIM-listed groups it may be the case that the directors want to incentivise employees to share in the growth of the subsidiaries or sub-group for which they work rather than the group as a whole. In these situations it may not be possible to implement an HMRC tax advantaged share plan. However, bespoke arrangements may be implemented to meet the objectives of organisations in the most tax efficient way.

Our specialist tax team advises AIM-listed companies on share scheme arrangements, designing flexible, commercial and easily administered solutions to help businesses reward and motivate staff.



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